

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Pacific Trans Environmental Services, Inc.
1452 North Johnson Avenue
El Cajon, California 92020

ID No. CAD981412356

Respondent.

Docket HWCA 2008-1627

STIPULATION AND ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Pacific Trans Environmental Services, Inc. (Respondent) enter into this Stipulation and Order (Order) and agree as follows:

1. A dispute exists regarding the First Amendment to Enforcement Order issued by the Department on July 28, 2008. (Attached as Exhibit 1.)
2. The parties wish to avoid the expense of further litigation and to ensure prompt action to achieve the Schedule for Compliance below.
3. Jurisdiction exists pursuant to Health and Safety Code section 25187.
4. Respondent waives any right to a hearing in this matter.
5. This Order shall constitute full settlement of the violations alleged in the Enforcement Order, but does not limit the Department from taking appropriate enforcement action concerning other violations.

SCHEDULE FOR COMPLIANCE

7. Respondent shall comply with the following:
 - 7.1. Effective immediately, Respondent shall cease accepting hazardous

waste at its Facility from parties not permitted to transport hazardous waste.

7.2. Submittals: All submittals from Respondent pursuant to this Order shall be sent to:

Jose Lara
Supervising Investigator II
Office of Criminal Investigations
Department of Toxic Substances Control
1515 Tollhouse Road
Clovis, California 93611

7.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

7.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified; or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

7.5. Compliance with Applicable Laws: Respondent shall carry out this

Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

7.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

7.7. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

7.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the

Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

7.9. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

7.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 9.3 in carrying out activities

pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.

7.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

7.12. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

7.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

8.1. Within 30 days of the effective date of this Order, Respondent shall pay the Department a total of \$2,000 of which \$1,000 is a penalty and \$1,000 as reimbursement of the Department's costs. The amount due shall be paid in two (2) installment payments. The first installment, in the amount of \$1,000, is due and payable within 30 days of the effective date of this Order. The second installment, in the amount of \$1,000, is due and payable within six (6) months after the first installment is received by the Department. Respondent's checks shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent simultaneously:

To: Jose Lara
Supervising Investigator II
Criminal Investigations Division
Department of Toxic Substances Control
1515 Tollhouse Road
Clovis, California 93611

To: Debra Schwartz
Staff Counsel
Office of Legal Affairs
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

8.2. Respondent hereby agrees to send an employee to the California Compliance School (Modules I through V). Attendance must be completed and the Respondent must submit a Certificate of Satisfactory Completion issued by the California Compliance School to the Department within 185 days of the effective date of this Order. In recognition of this educational investment, the administrative penalty imposed by this Consent Order has been reduced by Two Thousand Dollars (\$2,000) provided that the employee satisfactorily completes the specified

modules and the Department receives the Certificate of Satisfactory Completion within 185 days of the effective date of this Order. If Respondent fails to submit the certificate as required, the administrative penalty of \$2,000.00 is due and payable within 30 days after the 185-day period expires. The 185-day period may be extended by the Department upon a written request demonstrating good cause from Respondent.

OTHER PROVISIONS

9.1. Additional Enforcement Actions: By agreeing to this Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Order.

9.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

9.3 Parties Bound: This Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

9.4. Effective Date: The effective date of this Order is the date it is signed by the Department.

9.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: 8-14-2008 
Alfonso Arana, President
Pacific Trans Environmental Services

Dated: 9/2/08 
Jose Lara, Supervising Investigator II
Department of Toxic Substances Control

EXHIBIT I

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

IN THE MATTER OF:)	Docket No. HWCA 2008-1627A
)	
Pacific Trans Environmental Services, Inc.)	FIRST AMENDMENT TO
1452 North Johnson Avenue)	
El Cajon, California 92020)	ENFORCEMENT ORDER
)	
ID No. CAD981412356)	
)	Health and Safety Code
Respondent.)	Sections 25187 and 25200.14
)	

INTRODUCTION

The Department of Toxic Substances Control (DTSC) issued an Enforcement Order, Docket No. HWCA 2008-1627, dated 10/10/08, against Pacific Trans Environmental Services, Inc. (Respondent) with regard to Respondent's facility located at 1452 North Johnson Avenue, El Cajon, California, 92020. DTSC hereby issues this First Amendment to Enforcement Order (First Amendment) to Respondent to amend the Enforcement Order as follows:

1. Section 7, Effective Date, is hereby amended to state:

"Effective Date


7. This Order is final and effective fifteen days from the date it is served on Respondent, unless Respondent requests a hearing within the fifteen-day period.

Date of Issuance March 10, 2008

Jose Lara, Supervising Criminal Investigator II
Department of Toxic Substances Control "

Except as amended by this First Amendment, the provisions of the Enforcement Order shall remain in full force and effect. This First Amendment shall take effect upon the date when this First Amendment is executed by DTSC.

DATE: July 28, 2008

BY: 

Michael Berriesford, Branch Chief
Office of Criminal Investigations
Department of Toxic Substances Control